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SUBJECT: ASSESSING LABOR AFTER TWO YEARS OF CAFTA-DR

REF: A. 08 SDO 884
[1](#)B. SDO 297
[1](#)C. SDO 706

[1](#)1. (SBU) Summary: During the two years following the entry into force of CAFTA-DR, the GODR has made several advances towards meeting its White Paper goals, but nearly all of the major problems noted a year ago remain. While progress has not always been smooth, and significant problems remain, the current Labor Ministry seems ready, even eager, to focus resources on continued improvements in labor conditions. Labor inspections are improving and both workers associations and child labor elimination projects are advancing well. Significant room for improvement remains, however, in the areas of labor union strength, defining child labor, written labor contracts, health and safety, and discrimination. End Summary.

[1](#)2. (SBU) Following several meetings with NGOs, labor unions and the Ministry of Labor (SET), Post reports on the current challenges and successes of various projects and policy goals in the two years since CAFTA-DR entered into force. CAFTA-DR's effects have been significant and the SET recently commented that nearly all labor advances since the new administration took over (August 2008) are directly related to CAFTA-DR goals and USG-funded support and projects.

Advances

[1](#)3. (U) The GODR has increased the SET's budget to conduct inspections, and that increased budget has seen nearly immediate implementation. The increase covers both responsive and preventative inspections and allows for more inspections of batey (sugarcane) workers. Early implementation of these increased inspections led to 5,781 more inspections in 2008 than in 2007 when the SET conducted 79,484 inspections. Although the SET had been conducting inspections in the privately-owned bateyes prior to the increased budget, they did not have the means to monitor the state-owned bateyes spread throughout the country with no single employer. In early May, the SET began a program for inspections in the San Pedro area state-owned bateyes that are currently managed informally by private individuals. The inspectors met with the private managers to advise them of their responsibilities under the Labor Code and to notify them that they will be receiving random inspections to ensure

that they are complying with labor laws. The SET also held a Labor Forum in May to promote dialogue on several issues, such as gender discrimination, migrant labor and workplace health and safety.

14. (U) Several USG-funded projects have also achieved significant success in the past year. "Comply and Win," a regional CAFTA-DR program is working well with the SET to increase inspection capacity and effectiveness. Project "Cultivar" has moved from their initial work in bananas to sugar and has been targeting efforts in the Sugar Consortium of Industrial Companies (CAEI) bateyes as well as working with SET inspectors to improve inspections. "Cultivar" has also been working with the SET to produce and distribute temporary labor resident cards. "Everyone Works," another CAFTA-DR program, has set up labor and legal rights clinics that have already provided legal assistance to 1,681 individuals and has brought 1,383 legal cases to conclusion. These are just a few of the many USG-funded projects that are focused on labor law training, distributing information on labor rights, developing strong worker organizations, and several other vectors to bring about positive changes in labor practices as outlined in the White Paper goals.

15. (U) Workers associations have seen advances, but there are several continuing problems (see paragraph 7). The workers association at TOS Dominicana, a factory owned by Hanesbrand, finally achieved a strong collective bargaining agreement and issues between Hanesbrand and the factory workers have generally calmed down. Unfortunately, since that time, the union leader left the factory following threats of a for-cause termination due to alleged disciplinary infractions. The USG-funded Solidarity Center has made good inroads with labor associations in the informal sector, which ranges from 50-70 percent of the overall labor force. The Solidarity Center has been working with a large segment of that informal sector -- domestic servants and street vendors -- to form worker unions.

16. (U) A USDOL-funded project to eliminate child labor is closing out its second stage this year and expects to exceed substantially its goal of preventing 5,100 children from entering or continuing with the worst forms of child labor. Also this year, for the first time, President Fernandez announced his intention to eradicate the worst forms of child labor and that he would be increasing the education budget by 4.9 billion pesos (136.68 million USD) specifically to update classrooms. During the SET's Labor Forum in May, although they did not hold a panel on eliminating child labor, child labor was raised during the opening event and during the panel discussion on migrant workers. The SET has also designated a vice-minister of labor to work on eliminating child labor.

Continuing Challenges

17. (U) The advances seen in labor unions have not eliminated the continuing problems. Union leaders claim that SET inspectors are quick to respond to employers, but do not speak with the employees when they arrive to investigate both sides of the issue. Unions also complain that the inspectors lack training and often do not know what violations are. The SET needs to provide additional training for its inspectors to ensure that they are well versed on labor violations. The Solidarity Center also noted that although the Grupo M collective bargaining agreement is often held up as a sign that these agreements are achievable, that the agreement was signed only after seven years of hard work. Call centers, which are frequently seen as the driving force for the future Dominican economy, have yet to have a single union certified. Those working in the field claim that several call center employers are firing their employees within three months after hiring them so that the basic labor rights do not have a chance to take effect. While the employers argue that the employees are primarily students and are leaving of their own will after this short time, Feingold questions this rationale due to the fact that other jobs (especially good-paying jobs

like those found in call centers) are hard to find.

¶8. (U) Child labor remains a significant problem in several sectors, but most notably in agriculture and domestic work. The public pays little attention to these sectors and generally does not object to underage labor in these jobs. Attention seems to be directed more to what the child seems capable of doing and not to legal requirements, or as one worker stated to POLOFF during a recent agricultural site visit, "He's not a child. Look at him!" The fact that most schools provide about two and a half hours of class time per day only adds to the problem as the students are either turned out into the streets or put to work. Several NGOs have also noted the presence of child labor in the mining of larimar, a semi-precious indigenous gemstone. The GODR needs to promote more information on child labor, especially regarding the laws on legal ages to do different types of work.

¶9. (SBU) Written contracts are still hard to find. Under the Dominican Labor Code, both written and verbal contracts are binding and there is no "at will" employment. The Code provides legal contractual benefits after three months of continuous work based upon paystubs without the existence of a written contract. Andres Marranzini, a SET vice-minister, noted that written contracts are almost non-existent, and that he has never had a contract for any job he has held in the DR. He questions the need for written contracts at all. Despite this position generally held by the SET, a labor court in San Pedro de Macorix found in favor of 500 Haitian migrant workers who sought written contracts and benefits from their employer (ref B). This case is currently on appeal. Problems with pay deductions have lessened, but a persistent problem is that workers that cannot claim public benefits such as pension or health care without documentation. One of the large sugar consortiums, CAEI, has ceased deducting for social security, but at last report, the other sugar companies continue to make deductions.

¶10. (U) It appears that workplace health and safety issues have not improved in the past year (i.e. since last reported in reftel A) with limited health and safety measures implemented in the workplace.

¶11. (U) Discrimination likewise has not seen significant advances in the past year, but the SET is making an active effort to at least confront the problem. As part of their labor forum in May, the SET hosted discussions on gender issues and migrant labor in sugar production (read "Haitians"). The forum on gender discrimination was open to a public audience and confronted issues such as pay gaps between the sexes and mandatory pregnancy tests for employment. While resolutions for these problems remain elusive, at least the SET seems focused on working to remedy these gender biases. The panel on migrant labor was closed to invitees, but brought together the three major sugar producers, several NGOs and some of the labor unions working in sugar production. The panel was primarily about sharing information on current practices and provided attendees with more information on labor practices in sugar production than had previously been discoverable. Nationally, a regularization effort for undocumented residents is underway (ref C).

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